

## Message Text

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ORIGIN L-03

INFO OCT-01 ARA-10 EUR-12 ISO-00 OES-07 DOE-11 ACDA-12  
IO-13 NRC-05 SOE-02 CIAE-00 INR-07 NSAE-00 NSC-05  
EB-08 DODE-00 SS-15 SP-02 /113 R

DRAFTED BY L/N:RDSLOAN:AVW  
APPROVED BY OES/NET:LVNOSENZO  
OES - MR. MOFFITT  
ARA/AND - MR. KEMP (INFO)  
DOE - MS. IZELL  
ARA/ECA - MR. RONDON  
DOE - MR. SLAWSON  
ACDA - MR. MARSHALL/MR. WILLIAMSON  
IO/SCT - MS. JILLSON (INFO)  
NRC - MR. STOIBER (INFO)

-----014195 140725Z /11

R 132339Z JAN 78  
FM SECSTATE WASHDC  
TO AMEMBASSY BUENOS AIRES  
INFO AMEMBASSY LIMA  
AMEMBASSY VIENNA

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VIENNA FOR IAEA

E.O. 11652: N/A

TAGS: PARM, TECH, MNUC, IAEA, AR, PE

SUBJECT: U.S. FUEL FOR ARGENTINE REACTOR LOANED TO PERU

REFS: (A) STATE 004056, (B) 77 STATE 310922,  
(C) BUENOS AIRES 000197, (D) PERU 111, (E) LIMA 342

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1. WITH RESPECT TO THE NEED FOR CONCLUDING A PROJECT AGREE-  
MENT PURSUANT TO ARTICLE XI OF THE IAEA STATUTE IN ORDER TO  
PERMIT THE TRANSFER (WHETHER THROUGH LOAN, SALE, OR DONA-  
TION) OF ARGENTINE FUEL (OF U. S. ORIGIN) TO PERU, THE  
CRUCIAL POINT IS THAT ANY NUCLEAR MATERIAL SUBJECT TO THE  
U. S.-ARGENTINE COOPERATION AGREEMENT MAY (ACCORDING TO THE  
TERMS OF THAT AGREEMENT) BE TRANSFERRED ONLY WITH THE

APPROVAL OF THE U.S. AND THEN ONLY IF THE MATERIAL IS BEING TRANSFERRED TO A NATION OR A GROUP OF NATIONS WITH WHICH THE U.S. HAS AN AGREEMENT FOR COOPERATION. SINCE PERU DOES AT THIS TIME HAVE AN AGREEMENT FOR COOPERATION WITH U.S., IT IS NECESSARY THAT THIS RETRANSFER OF U.S.-ORIGIN FUEL BE ARRANGED THROUGH THE IAEA, IF THE FUEL IS TO BE SENT TO PERU IN THE NEAR FUTURE. THE TRANSFER WOULD THEN BE COVERED IN PERU UNDER THE U.S.-IAEA COOPERATION AGREEMENT. THIS AGREEMENT PERMITS U.S. COOPERATION IN AGENCY PROJECTS. ARTICLE XI OF AGENCY STATUTE PROVIDES FOR THE KIND OF ARRANGEMENT THAT IS NECESSARY IN ORDER TO BRING THIS TRANSFERRED FUEL UNDER THE AEGIS OF U.S.-IAEA COOPERATION AGREEMENT. ARTICLE XII SETS FORTH THE AGENCY'S RIGHTS AND RESPONSIBILITIES WITH RESPECT TO AGENCY PROJECTS OR OTHER ARRANGEMENTS TO WHICH THE IAEA IS REQUESTED TO APPLY SAFEGUARDS. THIS ARTICLE DOES NOT PROVIDE FOR BRINGING THE TRANSACTION UNDER THE U.S.-IAEA COOPERATION AGREEMENT. WHILE SAFEGUARDS HAVE NATURALLY BEEN ATTACHED TO THE PROPOSED TRANSFER OF THIS FUEL TO PERU, THE ACTUAL TRANSFER OF THE U.S. ORIGIN FUEL THUS CANNOT BE DONE UNDER ARTICLE XII, WHICH SIMPLY PROVIDES FOR APPLICATION OF SAFEGUARDS TO ARRANGEMENTS OTHERWISE CONSUMMATED.

2. REFERENCE TO U.S. SEEKING IAEA "ASSISTANCE" IS IN THE SENSE THAT SINCE U.S.-PERU BILATERAL AGREEMENT FOR COOPERATION NOT NOW IN EXISTENCE, IAEA ASSISTANCE WILL BE NECESSARY FOR LIMITED OFFICIAL USE

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SARY IN ORDER TO ENABLE U.S. ORIGIN FUEL, WHICH IS SUBJECT TO THE U.S.-ARGENTINE AGREEMENT FOR COOPERATION, TO BE TRANSFERRED TO PERU. OF COURSE ARGENTINA AND PERU HAVE ALSO REQUESTED THE "ASSISTANCE" OF THE IAEA IN ORDER TO ACCOMPLISH THE SAME TRANSFER. WE RECOGNIZE THAT THIS ENTIRE TRANSACTION IS BEING FASHIONED PRIMARILY TO MEET PERUVIAN NEED FOR "ASSISTANCE" UNDER IAEA STATUTE AND THAT IT IS BASICALLY AN ARGENTINE-PERU MATTER. WE DID NOT MEAN TO IMPLY THAT U.S. SEEKING OF IAEA "ASSISTANCE" WENT BEYOND THE FORMAL REQUIREMENT OF ARTICLE XI OF AGENCY STATUTE.

3. ACCORDING TO THE DRAFT QUADRIpartite AGREEMENT, ARGENTINA RETAINS TITLE TO FUEL AT ALL TIMES UNLESS IT LATER MAKES DIFFERENT ARRANGEMENTS WITH PERU. THE SENTENCE REFERRED TO IN REFTTEL (C), PARA 1 (C) (ARTICLE 3, PARA 4 OF DRAFT QUADRIpartite AGREEMENT) SIMPLY MEANS THAT WHILE THE FUEL IS IN PERU PURSUANT TO THE QUADRIpartite AGREEMENT, THAT THE TERMS AND CONDITIONS OF THE U.S.-IAEA AGREEMENT FOR COOPERATION WOULD APPLY. WITH RESPECT TO THE DRAFT U.S.-PERU EXCHANGE OF NOTES, THE LANGUAGE QUOTED IS NOT "A SENTENCE" BUT THE SANCTION TO

BE BROUGHT INTO EFFECT IN THE EVENT THAT PERU WERE TO UNDERTAKE ANY OF THE ACTIVITIES OUTLINED IN THE (A)-(G) SUBPARAGRAPHS WHICH PRECEDE IT. IT SHOULD BE NOTED THAT THE SECOND SENTENCE IN THE PENULTIMATE PARAGRAPH OF THE NOTE PROVIDES THAT WHILE THE U.S. WOULD HAVE A RIGHT TO REQUIRE RETURN, THE INTEREST HERE IS TO PROVIDE THE MEANS FOR REMOVAL OF FUEL FROM PERU AND THAT THE DETERMINATION AS TO WHETHER THE FUEL SHOULD BE RETURNED TO THE U.S. OR ARGENTINA WOULD BE REACHED ONLY AFTER FULL CONSULTATIONS WITH ARGENTINA ON THIS QUESTION.

4. DEPARTMENT ORIGINALLY INFORMED IN REFTTEL (D) THAT PERU HAD APPROVED QUADRIPARTITE AGREEMENT AND EXCHANGE OF

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NOTES AS WRITTEN. BASED ON REFTTEL (E), DEPARTMENT NOW UNDERSTANDS THAT PERU AND ARGENTINA FAVOR CHANGES IN DRAFT TEXTS.

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** NUCLEAR ENERGY, NUCLEAR SAFEGUARDS  
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**Draft Date:** 13 jan 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
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**Disposition Remarks:**  
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**Document Unique ID:** 00  
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**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Review Exemptions:** n/a  
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**Review Transfer Date:**  
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**Subject:** U.S. FUEL FOR ARGENTINE REACTOR LOANED TO PERU  
**TAGS:** PARM, TECH, MNUC, AR, PE, US, IAEA  
**To:** BUENOS AIRES  
**Type:** TE  
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**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014